



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: CSP Associates, Inc.

File: B-228229

Date: January 29, 1988

DIGEST

An agency is not required to permit an offeror to revise an unacceptable proposal when the revisions required would be of such magnitude as to be tantamount to the submission of a new proposal.

DECISION

CSP Associates, Inc., protests the rejection of the proposal it submitted in response to request for proposals (RFP) No. H051-RFP87-10, issued by the Office of Surface Mining, Reclamation and Enforcement, Department of the Interior, for an advanced technical training course on evidence collection, preservation and presentation. CSP contends that Interior failed to adhere to the stated evaluation criteria and disputes the agency's conclusion that its proposal was technically unacceptable. We deny the protest.

The RFP sought proposals to develop and conduct an advanced training course for federal, state and tribal inspectors and enforcement personnel charged with implementing the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. § 1201 et seq. (1982). Those who will take the course will have had either previous basic training or relevant experience or, in many cases, both. CSP previously has presented the agency's basic enforcement procedures course. The objective of the advanced course is to improve the participants' existing abilities both to collect, preserve, and document evidence and to describe such evidence in administrative and judicial forums.

The solicitation provided for proposals to be scored in four technical categories: innovative approaches, understanding of the problem, management approach, and corporate experience. Award was to be based on the technically acceptable offer with the lowest evaluated cost over the potential 60-month life of the contract, which includes a base period and four option periods. The RFP advised that a proposal determined to be completely unacceptable as

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submitted, and which could not be made acceptable without changes so major as to be tantamount to submission of a new proposal, would be excluded from the competitive range.

The agency received proposals from three firms. The technical evaluation committee scored the initial proposals and found that each had major deficiencies and significant weaknesses. The agency reports that it considered canceling the solicitation, but decided instead to request each of the three offerors to respond to seven identical questions. The questions asked offerors to explain how they planned to assure a balance of legal and technical experts, how judicial officials would be used, and how classroom techniques and instructors would be utilized to train individuals with extensive courtroom experience. In addition, the agency requested the offerors to describe how they would present material listed in the statement of work to a class of advanced students, as opposed to students at a basic or intermediate level, and how instruction on the use of sampling equipment and the collection of evidence would relate to evidentiary standards, given that the advanced course would not include how to conduct an inspection or how to determine whether a violation exists. After receiving the offerors' responses, the agency rescored the proposals and concluded that CSP's proposal and that of another offeror were unacceptable and could not be made acceptable through discussions without substantial proposal revisions. This resulted in a competitive range of one.

In view of the importance of achieving full and open competition in government procurement, we closely scrutinize any evaluation that results in only one offeror in the competitive range. Coopers & Lybrand, B-224213, Jan. 30, 1987, 66 Comp. Gen. _____, 87-1 CPD ¶ 100. In doing so, however, we recognize that contracting officials enjoy a reasonable degree of discretion in the evaluation of proposals to determine their acceptability, and therefore we will not disturb an agency's determination that a proposal is not in the competitive range absent clear evidence that the determination lacked a reasonable basis. Laser Photonics, Inc., B-214356, Oct. 29, 1984, 84-2 CPD ¶ 470. In this regard, a protester's mere disagreement with the agency's judgment does not establish that the evaluation of proposals and competitive range determination were unreasonable. SETAC, Inc., 62 Comp. Gen. 577 (1983), 83-2 CPD ¶ 121.

Interior's decision to exclude CSP from the competitive range was based on the agency's assessment of the firm's proposal under two evaluation criteria: (1) understanding of the problem in presenting material to an advanced,

specialized audience, and (2) staffing capability and mix.^{1/} With respect to the first criterion, the technical evaluation committee concluded that, given the time allotted for the course and the range of possible training techniques, CSP's proposal relied excessively on role-playing and on mock hearings. The committee questioned CSP's excessive use of these techniques for classes comprised of advanced students. The committee also stated that CSP's use of mock field exercises, simulated inspections, and demonstrations of sampling equipment is not suitable for advanced participants who already have extensive mine inspection and courtroom experience.

CSP contends that the course described in its proposal in fact was directed at advanced participants. The firm argues that its emphasis on practice was in direct response to the RFP's reference to role-playing and exercises, techniques that were specifically listed in the RFP as examples of progressive, interactive training techniques for advanced students.

Based on our review of the record, it appears that the agency did not regard as objectionable per se the protester's proposed use of teaching methods that involved various types of practice exercises. Indeed, CSP's proposal received a high score (25 of 30 points) under the evaluation criterion related to innovative and creative approaches. The agency was very concerned, however, that the use of these techniques was excessive given the experience level of the students. We have reviewed CSP's proposal, particularly the provisions concerning simulation of the evidence collection, preservation and presentation processes, and we find that indeed the proposal stresses mock exercises to a great extent. While the proposal, particularly as revised in response to the agency's questions, asserts that such exercises can be valuable even for experienced students, the proposal does not appear to offer much to the advanced student beyond the opportunity to practice existing skills.

^{1/} The agency had a number of other concerns with CSP's proposal, but has characterized these as minor. In addition, the agency contends that CSP's proposed costs, as adjusted, were higher than those of the offeror whose proposal was included in the competitive range. Although CSP disputes the amount of the agency's adjustment to the firm's proposed costs, we need not consider that issue since we have found no basis to question the agency's determination that CSP's proposal was technically unacceptable.

The proposal repeatedly states that the target audience would be advanced students, but focuses quite heavily on basic tasks such as performing inspections and collecting evidence. From our review of the evaluators' comments, it appears that an underlying concern was that the course proposed by CSP would not be taught at a level significantly above that of the basic course. We cannot say that this concern was not reasonably based.

With respect to staffing, the agency found CSP's technical staff to be inadequate because, while CSP offered a principal attorney, a retired administrative law judge, and another attorney as trainers throughout the course--all of whom CSP also used in its basic course--the proposal did not provide for sufficient technical expertise. A technical person Interior considered to have no more experience than the course participants was to be used only if needed.

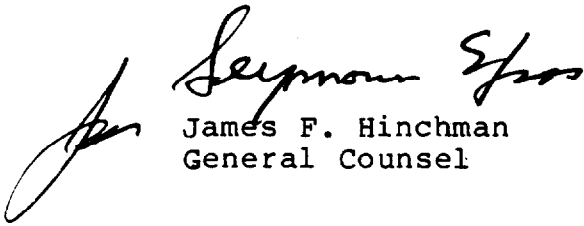
CSP argues that its proposed technical staff was acceptable because it included an experienced attorney who also qualifies as a technical expert since he has two degrees in engineering. CSP asserts that this instructor has developed inspection and enforcement policy guidance while in the government, has conducted training in all aspects of enforcement, has supervised inspectors and regulatory program personnel for Interior's Office Of Surface Mining, and has conducted inspections where samples were collected. In addition, CSP states that its technical person has conducted numerous surface coal mining inspections.

From our reading of the proposal, it does not appear that CSP presented a staffing plan that showed key personnel with the type of technical training required for advanced instruction in evidence collection, preservation and documentation. Although the principal attorney offered by CSP as a technical expert does have degrees in engineering, his experience is principally in administration and enforcement policy, and he does not appear to have experience in other scientific disciplines, such as hydrogeology, that Interior considers essential to instruction of advanced students with respect to evidence preservation issues. In addition, the alternate technical instructor proposed by CSP has a mining engineering background with only 4 years inspection experience (which, according to the agency, is less than that of the students expected to attend the course) and no scientific training. In short, we have no basis for disagreeing with Interior's conclusion that the personnel offered would not provide the technical resources to assist advanced personnel in acquiring the skills, information and insight necessary for the technical aspects of their jobs. CSP did not balance its proposed legal staff

with technical personnel having adequate scientific expertise.

An agency is not required to permit an offeror to revise an unacceptable proposal when the revisions needed would be of such magnitude as to be tantamount to the submission of a new proposal. Emprise Corp.--Request for Reconsideration, B-225385.2, July 23, 1987, 87-2 CPD ¶ 75 Here, CSP's proposal for the advanced course appeared to draw heavily on the basic course taught by CSP and relied to a very great extent on the qualifications of the firm's principal attorney. This individual not only was to provide a significant amount of the instruction on legal matters, but also would be providing training in the technical areas. The agency made a qualitative judgment that this individual did not have adequate scientific credentials with respect to both his education and his experience. In order to correct the deficiency, CSP would have had to restructure its approach to the agency's requirement by proposing a staff with significantly more technical expertise. Since this would have involved a major revision of the proposal, we have no legal basis to question the agency's decision to exclude that proposal from the competitive range.

The protest is denied.

A handwritten signature in black ink, appearing to read "James F. Hinchman", is written over the typed name and title.

James F. Hinchman
General Counsel